

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matters of)	
)	
Herring Broadcasting, Inc. d/b/a)	MB Docket No. 08-214
WealthTV,)	
Complainant)	File No. CSR-7709-P
v.)	
Time Warner Cable Inc.)	
Defendant)	
)	
Herring Broadcasting, Inc. d/b/a)	File No. CSR-7822-P
WealthTV,)	
Complainant)	
v.)	
Bright House Networks, LLC,)	
Defendant)	
)	
Herring Broadcasting, Inc. d/b/a)	File No. CSR-7829-P
WealthTV,)	
Complainant)	
v.)	
Cox Communications, Inc.,)	
Defendant)	
)	
Herring Broadcasting, Inc. d/b/a)	File No. CSR-7907-P
WealthTV,)	
Complainant)	
v.)	
Comcast Corporation,)	
Defendant)	

TO: Marlene H. Dortch
Secretary, Federal Communications Commission

ATTN: The Honorable Richard Sippel
Chief Administrative Law Judge

**DECLARATION OF GARY TURNER AS DESIGNATED EXPERT WITNESS FOR
WEALTHTV**

Submitted herewith is the declaration of Gary Turner as a designated expert witness for
WealthTV.

Respectfully submitted,

Herring Broadcasting, Inc., d/b/a
WealthTV

By Its Attorneys

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Harold J. Feld

February 20, 2009

DECLARATION OF GARY TURNER

I, Gary Turner, under penalty of perjury, hereby swear and affirm the following:

1. I have over 25 years of experience in the media industry, including, among other things, television production, network development, operation and management, interactive development and television advertising. I am the Co-Founder of Turner Media Group, Inc. d/b/a The Media Group (TMG) a multi-faceted media company independently valued at more than \$500 million dollars in 2006. As CEO of TMG I successfully led a media organization employing nearly 100 employees with offices in New York, Los Angeles, Chicago, San Francisco, and Denver. TMG owns and operated many subsidiary companies including The Ad Group LLC (TAG). TAG solicited, secured and managed sales on millions of advertising inventory units (avails) annually, generating hundreds of millions of dollars per year in ad revenue for its programming distribution service and network clients. In addition to TAG, TMG owns The Networks Group LLC (TNG). TNG has owned and operated eight full-time national television networks, including The Men's Channel, the Healthy Living Channel, and the Men's Outdoors & Recreation Channel, all of which were successfully distributed nationally in the United States for many years. Beginning in 2008, another of our companies, TV Ad Works LLC (TVAW) entered into an agreement with WealthTV regarding solicitation of national advertisers for placement within the WealthTV avails. I am, therefore, very familiar with all aspects of the television industry and WealthTV's programming service specifically.
2. I have followed WealthTV's progression from its launch in 2004 through today. To date, I believe I have visited WealthTV's headquarters in San Diego, California on two occasions, including tours of its content production operations. Based upon my visits to WealthTV's production facility, it is my opinion that WealthTV operates out of "state-of the art" content production facilities, and that WealthTV's commitment to the creation, distribution and long term operation of a quality programming service is extensive. For example, many emerging networks forgo the expense of bringing uplink capabilities on-site as doing so requires a substantial initial investment to reduce long term operating costs and enhance long term viability. I was impressed that WealthTV made such an investment. My tours of WealthTV were led by Dean Harris, who oversaw content production and Mr. Harris clearly possesses extensive expertise in content production.

3. WealthTV has always described itself as an upscale luxury male focused channel. In my opinion, much of WealthTV's content is similar to what can be found in upscale men's magazines such as the Robb Report, QC Magazine, and Forbes. WealthTV features shows on cars, cigars, spirits, wine, beer, yachts, planes, and high tech gadgets, along with financial shows, cooking and travel. This type of content is consistent with attracting a heavily male audience, 25 to 49 years of age, which is WealthTV's self described audience.

4. WealthTV, which I believe launched in high definition with a digital down-converted feed sometime in June of 2004, was one of the first high definition channels to launch 24/7 and the first high definition network to launch carrying only the focused programming genre described above comprised of original shows. This type of channel is highly appealing to distributors and advertisers seeking individuals with surplus disposable income. Over the years I've viewed WealthTV shows and have concluded that the content is well produced and of a high production quality.

5. It is clear that MOJO targets a similar audience to WealthTV, namely an upscale 70% male dominated audience in the 25 to 49 year old range, which is consistent with published articles on MOJO and direct quotes of Robert Jacobson, President and CEO of iN DEMAND. In addition, much of MOJO's lineup is comprised of shows focused on cars, wine, beer, high tech gadgets, cooking, finance, and travel, the same categories as many of WealthTV's series. With numerous shows of the same targeted categories as WealthTV's, and an identical target audience, it is my opinion that the advertisers targeted by MOJO would logically be nearly identical to those targeted by WealthTV. With an identical targeted audience, similar content, and appeal to the same advertisers, MOJO is very similar to WealthTV, which launched several years earlier.

6. Based upon my years of experience in selling advertising, emerging networks need to reach the 20 million subscriber threshold to attract budgets from national general market advertisers. This general rule of thumb has become commonplace knowledge in the television advertising industry. It has been my experience that national general market advertisers will not seriously entertain placing business with national networks or distributors until they reach the 20 million subscriber threshold. Until this threshold is met, many general market advertisers simply won't take meetings. Further, most national advertisers prefer to place business with networks or distributors that have

substantial coverage in at least the top 25 DMAs. Networks and/or distributors that lack substantial coverage in the top markets cause the advertisers to piece together complete coverage from multiple sources. There is generally overlap when this fragmented method is attempted causing the advertiser to overpay for overlapping coverage. Another draw back to this method is that some key markets may remain inadequately covered or even excluded. For time efficiency and cost effectiveness, national advertisers avoid this method and seek networks that have viable coverage in at least the 20 million subscriber range.

7. In the case of WealthTV, its high definition offering combined with a very attractive and highly sought after targeted audience, may lead one to believe that national general market advertisers may bend from the 20 million subscriber threshold rule of thumb. In early 2008, our advertising representative firm, TV Ad Works, LLC began representing WealthTV. With a proven seasoned advertising sales team, and despite considerable effort in promoting the attractive programming line-up and highly sought after demographic represented by WealthTV, TV Ad Works found no success in securing national general market advertisers for WealthTV. Working with multiple advertising agencies, numerous upscale men's products were sought for advertising on WealthTV, including sport and luxury automotive companies, including Mercedes, Lexus, BMW, and Porsche, alcoholic beverage suppliers and top men's watch brands. Roughly six months later, we confirmed via our actual efforts, not just theoretical assumptions, that WealthTV, like all other emerging networks needs to meet the 20 million subscriber threshold in order to become a viable national advertising source for national general market advertisers.
8. Additionally, many of the domestic programming service distributors closely watch the network lineups on the top cable providers including Comcast and Time Warner. Historically, there has been a "follow the leader" mentality. An emerging network that is unsuccessful in obtaining carriage on Comcast and Time Warner will be less likely to receive carriage before subscribers of the DBS platforms and other smaller cable systems. Without the support of the major cable operators in the form of distribution under feasible terms, there is likely to be concern about the long term viability of the network.
9. By May 2007, the 24/7 launch date of MOJO, WealthTV had been established for nearly three years and was recognized as one of the first unique high definition channels of its kind. Its programming

lineup is filled with original quality content and the targeted audience is ideal for advertisers. I firmly believe that WealthTV has proven its ability to deliver quality, content rich high-definition network programming, appealing to both viewers and advertisers alike.

Respectfully,

Gary Turner

X

Date:

2/18/09

CERTIFICATE OF SERVICE

I, Kathleen Wallman, hereby certify that, on February 20, 2009, copies of the foregoing document with attachment were served via electronic mail on the following:

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